13.10.2015 None appears for the petitioner.

The petitioner has filed this writ petition for issuance of direction upon the opposite parties to release full pension amount.

Since the matter is of the year 2002 as such in absence of learned counsel for the petitioner the writ petition is disposed of on the basis of materials available on record.

Grievance of the petitioner is that he met an accident in the year 1984 and hospitalized for more than 2 years. Opposite party-Mahanadi Coalfields Limited has passed order of dismissal on 13.11.1991 which was challenged by the petitioner in O.J.C. No.1675 of 1996 and the said writ petition was disposed of with direction to pay consolidated amount of Rs.30000/- for the period from 27.9.1991 to 22.3.1995. Thereafter, petitioner joined duty on 22.3.1995, discharged his duty and retired from service on 16.7.1998. Claim of the petitioner is that since he has rendered long period of service hence entitled to get pension Rs.1200/- per month. The petitioner is getting pension @rs.398/- per month during the relevant time, hence petitioner has approached this Court.

Opposite parties have filed counter affidavit wherein it has been stated that the total pensionable service period is only 13 years. Petitioner was on leave without pay from 17.8.1981 to 3.7.1985, hence charge sheet was issued on 12.6.1985 and was allowed to resume his duty on 4.7.1985 with warning that the petitioner would not repeat such type of mistake in future. The petitioner once again remained absence from duty w.e.f. 27.10.1989 and again charge sheet was issued on 5.6.1961. Petitioner was dismissed from service for his unauthorized absence vide order dated 13.11.1991. Thereafter, petitioner was reinstated in service with approval of competent authority vide order dated 1.3.1995 with the condition that he shall not be entitled to any back wages and benefits for the period from 13.11.1991 till 5.3.1995 and the period was treated as dies-non.

Learned counsel for the petitioner has submitted that the period of absence which was directed to be treated as dies-non was never been challenged before any court of law. However, by order of this Court in O.J.C No.1675 of 1996 a sum of Rs.30,000/-was paid to the petitioner for the period from 27.5.1991 to 22.3.1995. After superannuation from service the authorities have calculated pension and accordingly on the basis of period of work petitioners pension was fixed at the rate of Rs.398/- per month which he is now getting. It has been contended that the petitioner is entitled to full amount of pension @Rs.1200/- per month.

So far as the family pension is concerned, it is revealed that from March,1971 to March,1999 petitioner has contributed 12 months per year for a period of 13 years. Petitioner has hardly contributed towards family pension since 1971 to 1999, hence there is no fault on the part of the opposite parties regarding less amount of family pension to the petitioner. It has also been contended that fixation of pension of the petitioner by the authorities has not illegal.

Counter-affidavit has been filed way back in February,2006 but no rejoinder has been filed by the petitioner.

Heard learned counsel for the parties and perused the documents on record.

Petitioner has retired from service on 16.7.1998. While petitioner was in service he remained unauthorized absence. The petitioner was dismissed on 13.11.1991 which was challenged in O.J.C. No.1675 of 1996 and by order of this Court the petitioner was reinstated in service vide order dated 1.3.1995 with the condition that he will not be entitled to any back wages and benefits for the period from 13.11.1991 to 5.3.1995 i.e. the date of joining and this period was treated as dies-non. This Court has directed to pay consolidated of Rs.30,000/- by way of back wages for the period from 27.5.1991 to 22.3.1995. Petitioner was superannuated from service, the authorities have calculated pension on the basis of actual service rendered by the petitioner which was less than required period for entitlement of full pension and accordingly on the basis of period of service pension of the petitioner has been calculated @Rs.398/- per month as would be evident from para-3 of the counter affidavit.

Petitioner has also not contributed required amount for its deposit in the contributory provident fund, hence due to insufficient deposit of amount in the contributory provident fund, petitioner is also not entitled to family pension scheme. It is also evident from the statement made in paragraph-10 of the counter affidavit that right from March,1971 to March,1999 petitioner has contributed 12 months per year for a period of 13 years. Petitioner has hardly contributed towards family pension since 1971 to 1999, hence there is no fault on the part of the opposite parties regarding less amount of family pension to the petitioner. On this pretext, petitioner cannot be held to be entitled to family pension.

Thus in view of this, petitioner cannot be held to be entitled for ful

l pension.

In view thereof, there is no merit in the writ petition. Accordingly, the writ petition is dismayed being devoid of merit.

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S.N.Prasad,J.

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